

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Village Center North Amherst LLC, Matthew W. Corcoran, Manager

Date application filed with the Town Clerk: July 3, 2007

Nature of request: A Special Permit to convert the rear half of 81 Sunderland Road to a lodging/boarding house, manager's apartment and two offices under Section 3.329 of the Zoning Bylaw,

Address: 79-85 Sunderland Road (Map 5A, Parcel 33, COM Zoning District)

Legal notice: Published on July 25 and August 1, 2007 in the Daily Hampshire Gazette and sent to abutters on July 25, 2007

Board members: Edward Rising, Hilda Greenbaum and Albert Woodhull

Submissions: The petitioner submitted the following with his application:

- A floor plan of the proposed 4 boarding suites, manager's apartment and two offices, drawn by Matt Corcoran, dated 6/27/07;
- A site Plan of the building and parking, drawn by Robinson Engineers, last dated 2/1/90;
- A floor plan of the existing facilities for Hampshire Educational Collaborative (HEC), located in the front of 81 Sunderland Road, drawn by Thayer Street Assoc., dated 12/28/95;
- Elevations of the west (unchanged), north and east sides of the building, drawn by Matt Corcoran;
- A Management Plan of the parking, recycling and care of the building;
- A sworn statement stating that the commercial and residential tenants of the Watroba's building were notified of the Special Permit application, signed by Matthew Corcoran, dated 8/3/07, and notarized;
- The Planning Board Site Plan Review decision (SPR 89-14) approving the building and parking.

Site Visit: August 9, 2007

The Board met with the applicant at the site, and observed the following:

- A large three-story building housing a market, liquor store, HEC, seven apartments and an empty area in the north-east corner of the building;
- The exterior windows of the empty space that will be replaced, and the location of a new doorway;
- A roadway and parking surrounding the building;
- Commercial properties to the north and south of the site.

Public Hearing: August 9, 2007

Matt Corcoran represented himself at the hearing and gave the following information:

- He has owned the property for 3 ½ years;
- HEC downsized and is only renting the front part of the office space of the building;
- He has tried to rent the empty space for over a year, and has not been able to find a tenant for office space;

- He proposes to convert the space to boarding rooms with a manager's apartment;
- There will be no exterior changes to the building other than window and door alterations;
- There is ample parking for multiple uses in the building;
- He wishes to create a use that will make as little change to the building as possible, so that it can be converted back to office space in the future,

Mr. Woodhull asked if there had been a modification of the Site Plan Review of the Planning Board. The submitted site plan does not show the parking on the north side of the building or the roadway correctly. Mr. Corcoran responded that he was not involved with the property 15 years ago when the Site Plan Review occurred, but his understanding was that the property build-out was to be done in three stages, and the third phase was to complete the parking.

Mr. Corcoran stated that, from his calculations, 64 parking places are required for the various uses. That is:

1. Market & liquor store, 7,600 sq. ft. - 27 spaces
2. HEC, 3372 sq. ft. - 14 spaces
3. Seven apartments - 14 spaces
4. 4 Boarding rooms - 4 spaces
5. 2 offices, 454 sq. ft. - 3 spaces
6. First floor manager's apartment - 2 spaces

Ms. Greenbaum, who lives nearby, stated that she's never seen a parking problem at Watroba's. Mr. Corcoran agreed, stating that the south parking lot is never used. The apartment folks park on the north side, next to their entrance.

Mr. Woodhull asked how many parking spaces are on the north side of the building. The applicant answered that there are 11 or 12 spaces.

Mr. Rising said that he counted the total parking at the site visit. He said that he counted 55 spaces on the south of the building, 21 in the front of the building, 11 or 12 on the north side, and 5 spaces in the rear, for a total of 93 spaces. He said that the Board needs a new site plan showing the actual parking numbers.

Mr. Rising inquired about the Fire Department memo concerning access for emergency vehicles. The applicant stated that the person writing the memo must not have actually seen the property, because there is access all around the building. The huge tractor trailers delivering produce to the market or liquor store have no trouble reaching the rear of the building where deliveries are made.

Mr. Rising suggested that the applicant use the same site plan as originally submitted, but update it for the parking spaces, width of the driveway, and the Fire Department access around the building.

Ms. Greenbaum asked if the building is sprinkled. The applicant replied that the full building is sprinkled, but he will have to move some of the sprinkler heads as he reconfigures the back space for the boarding suites and manager's apartment.

Mr. Woodhull asked if there is a basement to the building. He noted that there is no storage space for larger items such as bicycles or canoes. The applicant responded that there is no basement, but there is a 10' x 10' storage shed for larger items, and a bicycle rack in the second floor laundry room. The laundry room will be available for the boarders.

Ms. Greenbaum said that she found from experience that people tend to store things and never retrieve them when they relocate creating a hazardous situation for the landlord. Mr. Corcoran agreed; he said that the attic was filled with junk when he bought the building and he had to get rid of it.

Mr. Woodhull said that his idea of a boarding house was that the owners of a dwelling take in boarders and provide a common cooking area. He said that this proposal is more like a college dormitory, with no common space or cooking facilities. The applicant said that he considered a kitchen a lot, and would be amenable to adding a kitchen. He said that in his experience with other rental property, though, that graduate students did not cook. He and his wife went back and forth about whether to include a kitchen in the plans, and concluded that it probably would not be used.

Mr. Rising stated that he thought about what the boarders will bring with or without a common kitchen – refrigerator, microwave, hot plate, television, computer, etc. He wondered if the electrical system would handle the extra usage. The applicant replied that there would be no problem with the electric draw. There are 12 different services in the building, and the back area alone has 200 amps. He also would like to include an internet connection to serve the entire building.

Mr. Woodhull noted that these boarding suites could be attractive to older folks, not just students. The applicant agreed, stating that he designed these spaces for tenants 23 years and up.

Mr. Woodhull wondered if it might be safer to include a kitchen. A residents' kitchen could be substituted for one of the office spaces on the plan. Ms. Greenbaum noted that a sink is included in the boarders' rooms on the plan, so that all that would be missing would be a stove if no common kitchen were included. The applicant stated that he would not allow stoves to be in the boarders' rooms.

Mr. Rising suggested that the lease should contain the proviso that no cooking facilities would be allowed. Ms. Greenbaum suggested that a condition of the permit could allow the applicant to add a kitchen if desired, and that such a change in the floor plan be brought back to the Board at a public meeting.

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the evidentiary portion of the hearing.

Public Meeting:

The Board reviewed the Zoning Bylaw Section where boarding rooms, not apartments, are allowed in a Commercial District. That is, Section 3.329 does allow boarding rooms (without kitchens) in a COM district, which is what the applicant is requesting. Section 3.325 however, does not allow dwelling units (with kitchens) on the first floor of a commercial building or more than 10% of the first floor space to be associated with residential use. Hence the applicant requested boarding rooms, not dwelling units.

The remainder of the public meeting was spent crafting conditions for a Special Permit if it were to be approved.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because boarding rooms are allowed by Special Permit in a Commercial district, and the residential use is compatible with the apartments on the second floor of the building.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining

premises against detrimental or offensive uses on the site because the rooms are designed for older folks and serious students. Also there will be no external changes to the building other than a change in some windows and entranceways.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there are no changes to the exterior of the building other than doorways, and there is plenty of parking to accommodate four boarding suites.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the rooms will be quite large, with separate bathroom facilities for each boarding room, and interior windows to create more natural lighting.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because there will be no signs associated with the use, and the available parking is more than needed for the various uses in the building.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the boarding rooms will be a small part of the disposal system already in place for the market, liquor store and apartments – i.e., a dumpster that is emptied twice/week, a cardboard and paper dumpster and barrels for glass, plastic, etc.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because lighting is downcast, except for the Town street lights surrounding the property.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because the design of the boarding suites and the lease will help to protect the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Ms. Greenbaum made a motion to APPROVE the Special Permit for boarders, with conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Village Center North Amherst LLC, Matthew W. Corcoran to convert the rear half of 81 Sunderland Road to a lodging/boarding house, manager's apartment and two offices under Section 3.329 of the Zoning Bylaw, on the premises at 79-85 Sunderland Road (Map 5A, Parcel 33, COM Zoning District), with conditions.

EDWARD RISING

HILDA GREENBAUM

ALBERT WOODHULL

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.
NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Village Center North Amherst LLC, Matthew W. Corcoran to convert the rear half of 81 Sunderland Road to a lodging/boarding house, manager's apartment and two offices under Section 3.329 of the Zoning Bylaw, on the premises at 79-85 Sunderland Road (Map 5A, Parcel 33, COM Zoning District), subject to the following conditions:

1. The boarding rooms, manager's apartment and offices shall be built according to the floor plans approved by the Board at the public meeting on August 9, 2007.
2. The name, address and phone number of the resident manager for the boarding rooms shall be registered with the Health Department and Inspection Services, and shall be kept current and accurate.
3. If a common kitchen is desired for the boarders, changes to the floor plans shall be submitted to the Board at a public meeting for review and approval prior to issuance of a building permit for the kitchen.
4. If a common kitchen is added, the resident manager shall be responsible for its being maintained in a sanitary condition and in full working order.
5. A revised site plan showing all of the parking, the driveway dimensions, and emergency vehicle access shall be submitted to the Board for approval at a public meeting.
6. Any additional exterior lights shall be downcast.
7. The boarding rooms shall be managed according to the Management Plan approved by the Board at a public meeting on August 9, 2007.
8. This permit shall expire upon change of ownership of the building.

EDWARD RISING, Chair
Amherst Zoning Board of Appeals

DATE